

EXHIBIT 5

Motion for Confidential Treatment

**BEFORE THE
ILLINOIS COMMERCE COMMISSION**

| | | |
|--|---|-------------------------|
| Application of |) | |
| |) | |
| Plan B Communications, Inc. |) | |
| |) | Docket No. _____ |
| For a Certificate of Authority to Operate as a |) | |
| Facilities Based and Resold |) | |
| Local Exchange and Interexchange Carrier |) | |
| of Telecommunications Services |) | |
| Throughout the State of Illinois |) | |

MOTION FOR CONFIDENTIAL TREATMENT

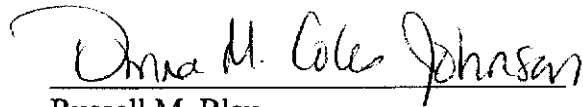
Plan B Communications, Inc. ("Plan B") hereby moves that the Illinois Commerce Commission enter an order pursuant to Section 200.430 of the Illinois Administrative Code protecting the confidentiality of the financial information and certain information about Plan B's operations provided in Plan B's Application for a Certificate of Local and Interexchange Authority to Operate as a Reseller and Facilities-Based Carrier of Telecommunications Services Throughout the State of Illinois.

Plan B's responses to Question 21 contains financial information and certain information about Plan B's operations that Plan B considers confidential, proprietary, non-public commercial information ("confidential information"). This information is also alluded to in page 6 of Plan B's Pre-filed Testimony, filed concurrently with its Application for a Certificate of Authority (as Exhibit 6). Plan B is a privately held corporation whose financial statements are not generally available to the public. This confidential information constitutes proprietary, commercially sensitive information that, if disseminated, could be used to Plan B's detriment by competitors. To the best of Plan B's knowledge, this confidential information has not been disclosed or released to the public.

Due to the sensitive nature of this information, it is appropriate for the Commission to limit access to such information. The confidential information being provided is for the use of the Commission and its staff in exercising their governmental functions. There is no legitimate purpose to be served in disclosing this proprietary material to Plan B's competitors or to any person other than the appropriate staff of the Commission.

WHEREFORE, Plan B Communications, Inc., respectfully moves that the Commission adopt a Protective Order that will limit the availability of the confidential information to the Commission and its staff.

Respectfully submitted,

A handwritten signature in cursive script that reads "Donna M. Coles Johnson". The signature is written in dark ink and is positioned above the printed name and address.

Russell M. Blau

Donna M. Coles Johnson

Swidler Berlin Shereff Friedman, LLP

3000 K. Street, N.W., Suite 300

Washington, DC 20007

Telephone: (202) 424-7500

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Counsel for:

Plan B Communications, Inc.

Date: July 13, 2000

EXHIBIT 6

Pre-Filed Testimony of Jack Dayan

In the Matter of

Application For a Certificate to Become a Telecommunications Carrier

**PRE-FILED TESTIMONY OF JACOB DAYAN
ON BEHALF OF**

PLAN B COMMUNICATIONS, INC.

1 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND TELEPHONE**
2 **NUMBER.**

3 **A.** My name is Jacob Dayan. My business address is 655 Shrewsbury Avenue, Suite 302,
4 Shrewsbury New Jersey, 07702. My business telephone number is (732) 345-7000.

5 **Q. WHAT IS YOUR POSITION WITH PLAN B?**

6 **A.** I am Plan B's President.

7 **Q. WHAT ARE YOUR RESPONSIBILITIES AS PRESIDENT?**

8 **A.** I am responsible for human resources, planning, engineering, operations, customer
9 service, sales and marketing of the company.

10 **Q. PLEASE BRIEFLY DESCRIBE YOUR PREVIOUS PROFESSIONAL**
11 **EXPERIENCE AND QUALIFICATIONS.**

12 **A.** Before founding Plan B and its predecessors, I served as Vice President of International
13 Operations for Royal Sound Company, an enterprise that conducts extensive business
14 throughout Asia. I earned my undergraduate degree in Finance from New York
15 University in 1992.

16 **Q. HAVE YOU TESTIFIED BEFORE THE ILLINOIS COMMERCE COMMISSION**
17 **("COMMISSION") PREVIOUSLY?**

18 **A.** No.

19 **Q. IS PLAN B CURRENTLY CERTIFICATED TO PROVIDE SERVICE IN**
20 **ILLINOIS?**

21 **A.** No.

22 **Q. IS PLAN B LEGALLY AUTHORIZED TO DO BUSINESS IN ILLINOIS?**

1 **A.** Yes. A copy of Plan B's Certificate of Authority to Transact Business in the State of
2 Illinois was submitted to the Commission as Exhibit 2 of its Application.

3 **Q.** **ARE YOU FAMILIAR WITH THE APPLICATION THAT WAS SUBMITTED**
4 **BY PLAN B TO THE COMMISSION FOR A CERTIFICATE OF PUBLIC**
5 **CONVENIENCE AND NECESSITY TO PROVIDE COMPETITIVE**
6 **TELECOMMUNICATIONS SERVICES WITHIN THE STATE OF ILLINOIS**
7 **("APPLICATION") ?**

8 **A.** Yes, I am.

9 **Q.** **DO YOU HAVE ANY CHANGES OR UPDATED INFORMATION TO PROVIDE**
10 **REGARDING THE APPLICATION?**

11 **A.** No.

12 **Q.** **ARE THERE ANY OTHER CHANGES OF WHICH THE COMMISSION**
13 **SHOULD BE AWARE?**

14 **A.** No.

15 **Q.** **DO YOU RATIFY AND CONFIRM THE STATEMENTS THAT ARE MADE IN**
16 **PLAN B'S APPLICATION?**

17 **A.** Yes, I do.

18 **Q.** **WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

19 **A.** The purpose of my testimony is to describe Plan B and the services it proposes to offer in
20 Illinois. In addition, I will demonstrate that Plan B possesses the financial, technical,
21 managerial and operational capabilities to operate as a provider of telecommunications
22 services within the state of Illinois.

1 **Q. PLEASE DESCRIBE THE AUTHORITY THAT PLAN B SEEKS BY ITS**
2 **APPLICATION.**

3 **A.** Plan B seeks authority to provide facilities-based and resold local exchange and
4 interexchange services.

5 **A. HAS PLAN B OBTAINED SUCH AUTHORITY FROM OTHER**
6 **JURISDICTIONS?**

7 Plan B is currently authorized to provide telecommunications services in Massachusetts
8 and New York. In addition to this application, Plan B will be seeking authority to
9 provide facilities-based and resold local exchange and interexchange telecommunications
10 services in Rhode Island, Connecticut, Vermont, Virginia, Maryland, Delaware,
11 Pennsylvania, New Jersey and the District of Columbia and may subsequently seek such
12 authority in additional jurisdictions.

13 **Q. PLEASE DESCRIBE THE CORPORATE STRUCTURE OF PLAN B.**

14 **A.** Plan B is a privately owned Delaware corporation.

15 **Q. PLEASE DESCRIBE THE TYPES OF SERVICES THAT PLAN B PLANS**
16 **TO OFFER IN ILLINOIS.**

17 **A.** Initially, applicant plans to offer local exchange services to small and medium-size
18 businesses, but may eventually expand to cover large businesses and residential
19 customers location in Illinois. Exchange services may include, but will not be limited to
20 the following: (i) local exchange access services to single-line and multi-line customers
21 (including basic residential and business line service, direct inward/outward PBX trunk
22 service, Centrex services and ISDN service); (ii) local exchange services to customers of

1 Plan B's end user access line services; and (iii) switched and special carrier access
2 services to other common carriers. In addition, Plan B intends, through interconnection
3 with other carriers, to offer 911 and enhanced 911 emergency services, directory
4 assistance and operator assisted calling, dual party relay services, and other
5 miscellaneous services currently provided by existing local exchange carriers and as
6 required by the Commission's local exchange telecommunication rules. Plan B also
7 intends to offer interexchange services, including both inbound and outbound intraLATA
8 and interLATA services. Finally, Plan B intends to offer high speed internet access to its
9 customers through DSL technology that will enable the bundling of voice, data,
10 applications and content over a single connection.

11 **Q. DOES PLAN B PROPOSE TO OFFER OPERATOR SERVICES?**

12 **A.** Not outside of what is described above.

13 **Q. PLEASE ADDRESS PLAN B'S MANAGERIAL AND TECHNICAL QUALIFICA-**
14 **TIONS.**

15 Plan B's officers have extensive managerial, financial, and technical telecommunications
16 experience and, therefore, are well qualified to execute its business plan. Descriptions of
17 the telecommunications and managerial experience of Plan B's key personnel were
18 attached as Exhibit 3 to Plan B's Application. These descriptions demonstrate that Plan
19 B's personnel have a broad range of experience in successfully managing and operating
20 telecommunications carriers. Accordingly, Plan B has the technical and managerial
21 resources necessary to provide customers in the State of Illinois with high-quality,
22 dependable, telecommunications services.

1 **Q. PLEASE DESCRIBE PLAN B'S FINANCIAL QUALIFICATIONS.**

2 **A.** Plan B is financially qualified to provide telecommunications services in the State of
3 Illinois. Plan B has access to the capital necessary to fulfill any obligations it may
4 undertake with respect to the provision of telecommunications services in the State of
5 Illinois. Copies of Plan B's financial statements were attached as Exhibit 4 to its
6 Application.

7 **Q. HAS ANY STATE EVER DENIED PLAN B AUTHORIZATION TO PROVIDE**
8 **INTRASTATE SERVICE?**

9 **A.** No.

10 **Q. HAS ANY STATE EVER REVOKED PLAN B'S CERTIFICATION?**

11 **A.** No.

12 **Q. HAS THE COMPANY EVER BEEN INVESTIGATED OR SANCTIONED BY**
13 **ANY REGULATORY AUTHORITY FOR SERVICE OR BILLING**
14 **IRREGULARITIES?**

15 **A.** No.

16 **Q. PLEASE DESCRIBE THE PUBLIC INTEREST BENEFITS ASSOCIATED WITH**
17 **PLAN B'S PROPOSED OFFERINGS OF INTRASTATE TELECOMMUNICATIONS**
18 **SERVICES IN ILLINOIS.**

19 **A.** Plan B's entry into the Illinois telecommunications market will serve the public interest
20 by creating greater competition in the telecommunications marketplace by giving
21 customers access to more efficient services and cost savings. Plan B's proposed
22 intrastate services will enhance the services already available to consumers and increase

1 consumer choice through innovative, diversified and reliable service offerings.
2 Consumers will benefit both directly, as a result of the competitively priced service
3 options available from Plan B, and also indirectly, as Plan B's presence will increase the
4 incentives for other telecommunications providers to operate more efficiently, reduce
5 prices, and offer more innovative services.

6 **Q. IF AUTHORIZED TO PROVIDE COMPETITIVE TELECOMMUNICATIONS**
7 **SERVICES, WILL PLAN B ABIDE BY THE RULES, REGULATIONS,**
8 **POLICIES AND ORDERS OF THIS COMMISSION AND THE LAWS OF THE**
9 **STATE OF ILLINOIS IN ITS PROVISION OF COMPETITIVE INTRASTATE**
10 **LOCAL EXCHANGE AND INTEREXCHANGE SERVICES?**

11 **A.** Yes, it will. Plan B will provide service in the State in full compliance with any and all
12 rules and regulations that have been or may be adopted relating to the provision of local
13 exchange and interexchange services, as well as any other applicable state or federal
14 rules, regulations, or statutes. For example, Plan B will comply with any competitively-
15 neutral requirements that the Commission and/or the State of Illinois determines are
16 necessary to preserve and advance universal service, protect the public safety and
17 welfare, ensure the continued quality of local services, and safeguard the rights of
18 consumers. Plan B also will comply with all statutory and Commission requirements
19 concerning the filing of tariffs, customer notification of rate increases, customer billing
20 and credit issues, access to 9-1-1 services, access to telecommunications for persons with
21 disabilities, and the filing of regulatory reports and the payment of regulatory
22 assessments.

1 **Q. IF GRANTED CERTIFICATION TO PROVIDE LOCAL SERVICE IN**
2 **ILLINOIS, WILL PLAN B ABIDE BY THE RULES AND REGULATIONS OF**
3 **THIS COMMISSION, AS NOW ADOPTED OR THAT MAY BE ADOPTED IN**
4 **THE FUTURE?**

5 **A.** Yes, it will.

6 **Q. PLEASE PROVIDE THE NAME, ADDRESS, TELEPHONE, AND FAX NUMBER**
7 **OF THE 9-1-1 CONTACT PERSON FOR YOUR COMPANY?**

8 **A.** Charlene Copeland, Plan B's Vice President of Operations, is the contact person for 9-1-1
9 issues. Ms. Copeland's address, telephone and fax numbers are: 655 Shrewsbury
10 Avenue, Suite 302, Shrewsbury, NJ 07702. Telephone: 732-345-7000. Fax: 732-530-
11 3762.

12 **Q. WILL YOUR COMPANY ENSURE THAT 9-1-1 TRAFFIC IS HANDLED IN**
13 **ACCORDANCE WITH THE 83 ILLINOIS ADMINISTRATIVE CODE PART 725**
14 **AND THE EMERGENCY TELEPHONE SYSTEM ACT?**

15 **A.** Yes, Plan B will ensure that 9-1-1 traffic is handled in accordance with the 83 Illinois
16 Administrative Code Part 725 and the Emergency Telephone System Act.

17 **Q. WILL YOUR COMPANY CONTACT AND ESTABLISH A WORKING**
18 **RELATIONSHIP WITH 9-1-1 SYSTEMS WHEN YOU BEGIN TO PROVIDE**
19 **LOCAL TELEPHONE SERVICE?**

20 **A.** Yes. Plan B will contact and establish a working relationship with 9-1-1 systems prior to
21 providing local telephone service in Illinois.

1 **Q. WILL YOUR COMPANY COORDINATE WITH THE INCUMBENT LEC(S)**
2 **AND LOCAL 9-1-1 SYSTEMS TO PROVIDE TRANSPARENT SERVICE FOR**
3 **YOUR LOCAL EXCHANGE CUSTOMERS?**

4 **A.** Yes, Plan B will coordinate with the incumbent LEC(s) and local 9-1-1 systems to
5 provide transparent 9-1-1 service to Plan B's local exchange customers. Plan B will
6 enter into an interconnection agreement with the incumbent LECs, which will set forth
7 the manner of transporting 9-1-1 calls from the Plan B end user to the appropriate Public
8 Safety Answering Point ("PSAP").

9 **Q. WHO WILL BE RESPONSIBLE FOR BUILDING AND MAINTAINING THE 9-**
10 **1-1 DATA BASE FOR YOUR LOCAL EXCHANGE CUSTOMERS?**

11 **A.** Charlene Copeland, Vice President of Operations, is responsible for maintaining Plan B's
12 internal 9-1-1 database and operations.

13 **Q. HOW OFTEN WILL YOUR COMPANY UPDATE THE 9-1-1 DATA BASE**
14 **WITH CUSTOMER INFORMATION?**

15 **A.** Plan B will update the 9-1-1 database monthly.

16 **Q. WILL YOUR COMPANY'S BILLING SYSTEM HAVE THE ABILITY TO**
17 **DISTINGUISH BETWEEN FACILITIES BASED AND RESALE FOR THE**
18 **COLLECTION OF THE 9-1-1 SURCHARGE AND ILLINOIS TELE-**
19 **COMMUNICATIONS ACCESS CORPORATION LINE CHARGE?**

20 **A.** Yes. Plan B's billing system can differentiate between facilities-based and resale for the
21 collection of the 9-1-1 surcharge and Illinois Telecommunications Access Corporation
22 line charge.

1 **Q. DOES YOUR COMPANY HAVE PROCEDURES FOR THE TRANSITIONING**
2 **OF THE 9-1-1 SURCHARGE COLLECTION AND DISBURSEMENT TO THE**
3 **LOCAL 9-1-1 SYSTEM?**

4 **A.** Yes.

5 **Q. WILL YOUR COMPANY'S PROPOSAL REQUIRE ANY NETWORK**
6 **CHANGES TO ANY OF THE 9-1-1 SYSTEMS?**

7 **A.** No.

8 **Q. WILL YOUR COMPANY BE ABLE TO MEET THE REQUIREMENTS**
9 **SPECIFIED UNDER PART 725.500(o) AND 725.620(b) FOR THE**
10 **INSTALLATION OF CALL BOXES?**

11 **A.** Plan B intends to request a waiver of Part 725.500(o) and 725.620(b) from the Illinois
12 Commerce Commission. Sections 725.500(o) and 725.620(b) require that call boxes be
13 installed at a local exchange carrier's ("LEC") switch in order to allow a Public Safety
14 Answering Point ("PSAP") employee to field 9-1-1 calls from that switch in the event of
15 a trunking problem between the central office and the PSAP. Plan B will ensure that it
16 can process all emergency calls with a high degree of reliability.

17 **Q. WILL YOUR COMPANY COMPLY WITH 83 ILLINOIS ADMINISTRATIVE**
18 **CODE PART 772, PAY-PER-CALL SERVICES, INCLUDING PART 772.55(a)(1),**
19 **BILLING AND PART 772.100(d) NOTICES?**

20 **A.** At this time, Plan B has no plans to provide local pay-per-call services. If in the future,
21 Plan B wishes to provide these services, it will abide by 83 Illinois Administrative Code
22 Part 772, including Part 772.55(a)(1) and Part 772.100(d).

1 **Q. WILL YOUR COMPANY COMPLY WITH 83 ILLINOIS ADMINISTRATIVE**
2 **CODE PART 705, PRESERVATION OF RECORDS OF TELEPHONE**
3 **UTILITIES?**

4 **A.** Yes. Plan B will comply with the regulations imposed on LECs concerning the
5 preservation of records. However, as described below, Plan B requests permission to
6 maintain its books and records at its principal place of business in the State of New Jersey
7 pursuant to 83 Ill. Admin. Code part 250.

8 **Q. WILL YOUR COMPANY ABIDE BY 83 ILLINOIS ADMINISTRATIVE CODE**
9 **PART 735, "PROCEDURES GOVERNING THE ESTABLISHMENT OF**
10 **CREDIT, BILLING, DEPOSITS, TERMINATION OF SERVICE AND**
11 **ISSUANCE OF TELEPHONE DIRECTORIES FOR TELEPHONE UTILITIES IN**
12 **THE STATE OF ILLINOIS"?**

13 **A.** To the extent that the Commission does not grant Plan B a waiver of Part 735, Plan B
14 will comply with 83 Illinois Administrative Code Part 735. However, as described
15 below, Plan B also requests a variance with regard to the issuance of telephone
16 directories.

17 **Q. WHO WILL PROVIDE CUSTOMER REPAIR SERVICE FOR YOUR**
18 **COMPANY?**

19 **A.** Plan B customers may call Plan B's toll free customer service number, 888-752-6250, 24
20 hours a day, 7 days a week for routine and emergency repair and maintenance.

21 **Q. WILL YOUR COMPANY MEET THE REQUIREMENTS AS THEY PERTAIN**
22 **TO THE TELEPHONE ASSISTANCE PROGRAMS IMPOSED BY SECTIONS**

1 **13.301 AND 13.301.1 OF THE ILLINOIS PUBLIC UTILITIES ACT AND 83**
2 **ILLINOIS ADMINISTRATIVE CODE PART 757?**

3 **A.** Yes. Plan B will participate with Illinois telephone assistance programs.

4 **Q. DOES PLAN B INTEND TO COMPLY WITH THE COMMISSION'S RULES**
5 **CONCERNING THE PROVISION OF TELEPHONE RELAY SERVICES AND**
6 **OTHER REQUIREMENTS CONCERNING THE PROVISION OF SERVICE TO**
7 **PERSONS WITH DISABILITIES?**

8 **A.** Yes. Plan B will comply with applicable Commission regulations concerning
9 Telecommunications Relay Services, access for persons with disabilities, and telephone
10 assistance programs. Plan B intends to comply with those requirements including the
11 provision of TTY distribution and Telecommunications Relay Service by contracting
12 with incumbent LECs.

13 **Q. WILL YOUR COMPANY ABIDE BY THE REGULATIONS AS PRESCRIBED**
14 **IN 83 ILLINOIS ADMINISTRATIVE CODE PART 755, "TELE-**
15 **COMMUNICATIONS ACCESS FOR PERSONS WITH DISABILITIES," 83**
16 **ILLINOIS ADMINISTRATIVE CODE PART 756 "TELECOMMUNICATIONS**
17 **RELAY SERVICE," AND SECTIONS 13-703 OF THE ILLINOIS PUBLIC**
18 **UTILITIES ACT?**

19 **A.** Yes.

20 **Q. WILL PLAN B COMPLY WITH THE COMMISSION'S RULES CONCERNING**
21 **THE UNIVERSAL SERVICE OBLIGATIONS OF LOCAL EXCHANGE**
22 **CARRIERS, INCLUDING REGULATIONS CONCERNING CONTRIBUTIONS**

1 **TO THE UNIVERSAL TELEPHONE ASSISTANCE CORPORATION**
2 **("UTAC")?**

3 **A.** Yes. Plan B will comply with Part 757 of the Illinois Administrative code regarding the
4 Universal Service obligations of local exchange carriers. In particular, Plan B will
5 contribute to the UTAC in adherence with the rules governing the solicitation and
6 remittance of contributions and the filing of reports with the Commission. Furthermore,
7 Plan B will comply with all rules and requirements imposed on LECs, as now adopted or
8 as may be adopted in the future, in order to bear its fair share of responsibility as an
9 LEC.

10 **Q.** **HAS YOUR COMPANY SIGNED AND RETURNED THE UNIVERSAL**
11 **TELEPHONE ASSISTANCE CORPORATION ("UTAC") AND THE ILLINOIS**
12 **TELECOMMUNICATIONS ACCESS CORPORATION ("ITAC") TO**
13 **COMMISSION STAFF?**

14 **A.** No. Plan B will return the UTAC and ITAC prior to providing local exchange services in
15 Illinois.

16 **Q.** **WILL YOUR COMPANY SOLICIT, COLLECT, AND REMIT THE**
17 **VOLUNTARY CONTRIBUTIONS FROM ITS TELEPHONE SUBSCRIBERS TO**
18 **SUPPORT THE TELEPHONE ASSISTANCE PROGRAMS?**

19 **A.** Yes.

20 **Q.** **DOES YOUR COMPANY PLAN TO OBTAIN ELIGIBLE TELE-**
21 **COMMUNICATIONS CARRIER STATUS TO QUALIFY FOR THE**
22 **FEDERALLY FUNDED LIFELINE AND LINK UP PROGRAMS?**

1 A. At this time, Plan B does not intend to seek designation as an Eligible
2 Telecommunications Carrier.

3 Q. WILL YOUR COMPANY OFFER ALL OF THE WAIVERS ASSOCIATED
4 WITH THE UNIVERSAL TELEPHONE SERVICE ASSISTANCE PROGRAMS
5 (UTSAP)?

6 A. Yes.

7 Q. PLEASE DESCRIBE YOUR COMPANY'S INTERNAL PROCESS FOR
8 COMPLAINT RESOLUTION, THE ESCALATION PROCESS WITHIN YOUR
9 COMPANY, AND WHEN A CUSTOMER IS NOTIFIED THAT THEY MAY
10 CONTACT THE ILLINOIS COMMERCE COMMISSION FOR ASSISTANCE.

11 A. Plan B will handle customer service orders, requests, inquiries, and/or complaints through
12 its toll-free customer service number, 888-752-6250. This toll-free number will be
13 printed on customer invoices. Plan B's Customer Service Center is available 14 hours a
14 day, five days a week, and 9 hours a day on Saturdays and Sundays. The Customer
15 Service Center is staffed by knowledgeable customer service representatives. After hours
16 calls are forwarded to a page service. Resolution and/or escalation of customer service
17 complaints will be handled in conformity with applicable Commission regulations and
18 Plan B's tariffs.

1 **Q. WILL THE COMPANY FILE TARIFFS FOR ALL SERVICES AND CHARGES**
2 **ASSOCIATED WITH PROVIDING LOCAL TELEPHONE SERVICE,**
3 **INCLUDING SPECIFIC PROGRAMS, E.G., 9-1-1, UTAC, AND ITAC?**

4 **A.** Yes. Plan B will file a final local exchange tariff after certification and prior to the
5 initiation of local exchange service in Illinois. The tariff will set forth provisions for all
6 of its local service offerings, including 9-1-1, UTAC, and ITAC.

7 **Q. HOW DOES YOUR COMPANY PLAN TO SOLICIT CUSTOMERS ONCE IT**
8 **BEGINS TO PROVIDE LOCAL SERVICE?**

9 **A.** Plan B will use direct marketing and telemarketing methods in order to market its service
10 to business and residential customers.

11 **Q. WILL YOUR COMPANY ABIDE BY FEDERAL AND STATE SLAMMING**
12 **LAWS?**

13 **A.** Yes. Plan B will comply with Illinois law and the Federal Communications
14 Commission's regulations regarding how carriers may change a consumer's primary
15 carrier. Plan B has dedicated significant management resources and state of the art
16 provisioning and telemarketing systems to maximize the chances that each customer's
17 experience with Plan B is trouble-free and enjoyable.

18 **Q. HAS YOUR COMPANY WRITTEN GUIDELINES TO PREVENT THE**
19 **UNAUTHORIZED SLAMMING OF LOCAL EXCHANGE CUSTOMERS?**

20 **A.** Plan B requires every sale of telecommunications service to be generated through
21 customer understanding and informed consent regarding the nature of the transaction, the
22 services being requested and the associated costs involved. Plan B will comply with all

1 applicable Illinois Commerce Commission and FCC rules and regulations regarding
2 slamming.

3 **Q. HAS YOUR COMPANY PROVIDED SERVICE UNDER ANY OTHER NAME?**

4 A. Yes. Plan B's predecessor entity was Advanced American Telecom., Inc. ("AATI"),
5 which began operations in 1996. In June of 1997, AATI obtained a Certificate of Public
6 Convenience and Necessity to operate as a reseller of telephone services in New York
7 State. In May 1998, AATI transferred substantially all of its assets and liabilities to
8 Advantel, LLC, a Delaware company. In March of 2000, Advantel, LLC effected a
9 reorganization pursuant to which it became Plan B Communications, Inc.

10 **Q. HAVE ANY COMPLAINTS OR JUDGMENTS BEEN LEVIED AGAINST THE**
11 **COMPANY? (INSTATE, OUT-OF-STATE, OR FCC).**

12 A. Yes. The New York Public Service Commission's (NY PSC's) Office of Consumer
13 Education and Advocacy opened an administrative investigation of the consumer
14 complaints filed against Plan B in April 2000. Plan B responded by submitting a detailed
15 plan to minimize future consumer complaints. The NY PSC's Office of Consumer
16 Education and Advocacy accepted Plan B's plan and has taken no action against Plan B.

17 **Q. PLAN B HAS REQUESTED A WAIVER FROM CERTAIN PROVISIONS OF**
18 **THE ILL. ADM. CODE. WHAT IS THE BASIS FOR THESE REQUESTS?**

19 A. Plan B seeks a waiver of Parts 710 and 735. Plan B also seeks a variance of Part
20 735.180. It is my understanding that the Commission in other cases has found that it is
21 not necessary to apply these regulatory provisions to competitive service providers and
22 has exempted competitive carriers from the application of these provisions. Such waivers

1 reduce the economic burdens of regulation and are not inconsistent with the law or the
2 purposes and policies of Article XIII of the Act. Plan B respectfully submits that these
3 waivers will benefit Illinois consumers by facilitating the Company's entry into the
4 telecommunications market without compromising the public interest.

5 **Q. PLEASE EXPLAIN PLAN B'S REQUEST FOR A WAIVER FROM PART 710.**

6 **A.** Part 710 requires compliance with the Uniform System of Accounts ("USOA"). While
7 this provision is appropriately applied to incumbent LECs that have market power, it
8 imposes unnecessary and burdensome requirements on new entrants that are inconsistent
9 with a competitive environment. Plan B's size and lack of market power are special
10 circumstances that warrant a waiver of the USOA requirement. Plan B keeps its books in
11 accordance with Generally Accepted Accounting Principles ("GAAP"), which will result
12 in a substantially equivalent portrayal of its operating results and financial condition and
13 will maintain uniformity in the substantive results as among telecommunications
14 companies. Finally, it is my understanding that the Commission has waived Part 710 for
15 other competitive carriers, including MFS Intelenet of Illinois, Inc. (Docket No. 93-0409)
16 and MCI Metro Access Transmission Services, Inc. (Docket No. 94-0400). Plan B seeks
17 the same treatment.

18 **Q. WILL APPLICANT MAINTAIN ITS RECORDS IN SUFFICIENT DETAIL TO**
19 **FACILITATE THE CALCULATION OF ALL APPLICABLE TAXES?**

20 **A.** Yes.

21 **Q. DOES THE ACCOUNTING SYSTEM CURRENTLY IN USE BY APPLICANT**
22 **PROVIDE SUFFICIENTLY DETAILED DATA FOR THE PREPARATION OF**

1 **ILLINOIS GROSS RECEIPTS TAX RETURNS? WHAT SPECIFIC ACCOUNTS**
2 **OR SUB-ACCOUNTS PROVIDE THIS DATA?**

3 **A.** Yes. Plan B maintains an Illinois database of customer-related information that allows
4 for the preparation of Illinois gross receipts tax returns.

5 **Q.** **PLEASE DESCRIBE PLAN B'S REQUEST FOR A WAIVER OF THE**
6 **REQUIREMENT TO MAINTAIN BOOKS AND RECORDS IN THE STATE OF**
7 **ILLINOIS PURSUANT TO 83 ILL. ADM. CODE 250.20.**

8 **A.** Plan B requests a waiver pursuant to 83 Ill. Adm. Code 250.20 so that it may maintain its
9 books and records at its principle place of business in Shrewsbury, New Jersey.

10 **Q.** **PLEASE EXPLAIN Plan B'S REQUEST FOR A VARIANCE FROM 83 ILL.**
11 **ADM. CODE PART 735.180.**

12 **A.** Plan B seeks a variance of Part 735.180, which requires LECs to publish and distribute
13 directories to their customers. Plan B plans to negotiate an agreement with other local
14 exchange providers, pursuant to which those carriers will include Plan B's customer
15 listings in their directories and distribute them to Plan B's customers.

16 **Q.** **THE COMMISSION'S CONSUMER SERVICES DIVISION REQUESTS THAT**
17 **CARRIERS THAT ARE CERTIFIED TO PROVIDE LOCAL EXCHANGE**
18 **SERVICE NOTIFY THE DIVISION AT LEAST ONE MONTH PRIOR TO THE**
19 **ACTIVATION OF LOCAL EXCHANGE SERVICE. WILL PLAN B SO NOTIFY**
20 **THE DIVISION ON A TIMELY BASIS PRIOR TO THE ACTIVATION OF**
21 **LOCAL SERVICE?**

22 **A.** Yes, it will.

1 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

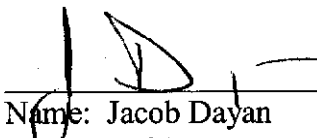
2 **A.** Yes, it does. I reserve the right, however, to amend or modify my testimony, as
3 appropriate.

4 **END OF TESTIMONY**

VERIFICATION

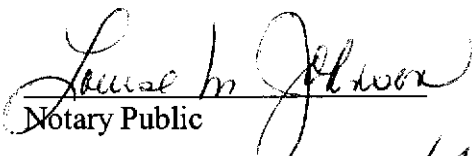
STATE OF NEW JERSEY)
)
COUNTY OF *Hernmouth*)

I, Jacob Dayan, being duly sworn, declare that I am President of Plan B Communications, Inc. ("Plan B"). I prepared the foregoing written testimony in connection with Plan B's Application for a Certificate of Local and Interexchange Authority to Operate as a Reseller and Facilities-Based Carrier of Telecommunications Services throughout the State of Illinois. My testimony is true and correct to the best of my knowledge and belief.


Name: Jacob Dayan
Title: President

Plan B Communications, Inc.

Subscribed and Sworn to before me this 30 day of June, 2000.


Notary Public

My commission expires: 7/5/00